5383.

SUPREME COURT OF THE UNITED STATES.

No. 306.

THE UNITED STATES, APP'TS,

vs.

JOHN BIDWELL.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

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OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle Private Land Claims in the State of Cal'a.

Be it remembered that on this thirtieth day of March, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of John Bidwell for the place named "Arroyo Chico" was presented, and ordered to be filed and docketed with No. 143, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *April 2d*, 1853.

In case No. 143, John Bidwell, the deposition of John Augustus Sutter, a witness in behalf of the claimant, was filed.

(Vide page 26 of this Transcript.)

SAN FRANCISCO, *April 7th*, 1852.

In the same case, the deposition of P. B. Reading, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 35 of this Transcript.)

SAN FRANCISCO, *April 8th*, 1852.

In the same case, the deposition of David Spence, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 37 of this Transcript.)

SAN FRANCISCO, *April 20th*, 1852.

In the same case, the deposition of Henry L. Ford, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed.

(Vide page 39 of this Transcript.)

SAN FRANCISCO, *May 6th*, 1852.

Case No. 143, John Bidwell, on motion of the counsel for the claimant, set for hearing on Monday, the 19th inst.

SAN FRANCISCO, *January 8th*, 1853.

Case No. 143, called. Mr. Crosby, the attorney for the claimant,

read the papers in evidence and opened the argument; answered by the associate law agent, and case continued for further argument on the 10th inst.

In the same case, the counsel for the claimant filed the following agreement, to wit:

(Vide page 64 of this Transcript.)

SAN FRANCISCO, *Jan.* 10*th*, 1853.

In the same case, argument by Mr. Rose, attorney for the claimant, resumed, concluded, and case submitted; taken under advisement.

SAN FRANCISCO, *March* 14, 1853.

In the same case, Commissioner Hiland Hall delivered the opinion and the decree of final confirmation of the board, which opinion and decree are as follows, to wit:

(Vide page 66 of this Transcript.)

Petition.

To the Hon. the Board of Land Commissioners for settling Private Land Claims in California.

The petition of John Bidwell respectfully showeth:

That on the 18th Nov., 1844, a grant of five leagues was made with a provisional title to William Dickey by Gov. Micheltorena, who derived his authority to grant from the colonization law of Mexico, of the 18th August, 1824, and the instructions made under said law dated the 21st Nov., 1828; that said grant was sold and conveyed to Geo. McKinstry, jr., by deed dated 7th May, 1849, who conveyed one undivided half thereof to your petitioner by deed dated July 6th, 1849, and the remaining undivided half to one Justus McKinstry, about Oct., A. D. 1850, (which deed was lost,) and afterwards confirmed the same to said Justus McKinstry by deed, dated the 24th February, 1851; that on the 20th Feb'y, 1851, said Justus McKinstry conveyed said remaining undivided half of said land to your petitioner; that said grant is situated in Butte county, as described and set forth in said title; that it has been surveyed, and there is no conflicting claim known to it to your petitioner.

Your petitioner further represents, that upon the measurement of said grant it was found that the boundaries called for by said Dickey in his petition to the governor did not contain the quantity of land granted, or intended to be granted, and that he made application to Capt. J. A. Sutter, judge of the jurisdiction of the Sacramento, on the 4th June, 1846, for permission to change the former boundaries for those described in said application, to wit: On the north by the land of Santiago Coates, and vacant and sterile lands;

on the east by the base of the Sierra Nevada; on the south by the Arroyo Chico; and in the west by the river Sacramento; which said application was acceded to by said Sutter, who derived his authority to act in such cases from Gov. Micheltorena, by virtue of a decree by said governor dated 22d December, 1844.

Your petitioner further represents, that the evidence relied upon in support of his claim is the testimony of witnesses to be provided before your honorable board, and the documents marked Exhibits No. 1, No. 2, No. 3, No. 4, herewith filed, and to be taken as part of this petition.

All of which is respectfully submitted for such action as the justice and nature of the case may require.

CROSBY & ROSE,
Attorneys for the Petitioner.

Transfers marked Exhibits Nos. 5, 6, 7, 8.

Filed in office March 30th, 1852.

GEO. FISHER, *Sec'y.*

[1 S. D. K.]

1844.

Espediente promovido por D. Guillermo Dickey en solicitud del terreno que se espresa.

No. 392.

[2 S. D. K.]

Sello Cuatro—Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA. PABLO DE LA GUERRA.

[L. S.] Ex'mo Señor Gobernador:

Guillermo Dickey, natural de Yrlanda, y residente en este departm'to desde el año 1837, ante V. E. con el mas profundo respeto me presento y digo:

Que siendo naturalizado Mexicano y deseando dedicarme á la agriculturas suplicos á V. E. se digne concederme el terreno situado en las margenes del Arroyo Chico y son sus linderos al O. el Rio Sacramento, al N. terreno baldio y esteril, al E. la Sierra Nevada, y almedio dia el Arroyo Chico. D'ho terreno tiene una estension de una legua a la orilla del Rio Sacramento, y cinco leguas á la orilla del Arro. Chico comprendiendo una estencion de cinco sitios de ganado mayor, con manifiesta el adjunto diseño.

Ex'mo. P. T.

[3 S. D. K.]

Á V. E. ruego se digne acceder á esta mi peticion, en lo que recibiré Merced y gracia juro lo necesario, etc.

Monterey, á 5 de Noviembre, de 1844.

GUILLERMO DICKEY.

MONTEREY, *Nov.* 9, *de* 1844.

Ynf'l el S. s'rio del despacho tomando previamente los q'e crea necesarios.

MICHELTORENA.

Señor Gobernador:

Por los informes que acompaña el interesado consta que el terreno esta baldio, y por un decreto superior de V. E. esta mandado que se le estienda una licencia provicional, y entiendo que podra verificarse demarcando el terreno que de nuevo demarca el interesado; la sup'or disposicion de V. E. sera lo que mejor convenga.

Monterey, 7 de No'bre, de 1844.

MANUEL JIMENO.

F'ha la necesaria. Conforme.

MICHELT'A.

[4 S. D. K.]

Sello Tercero—Un Peso.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para el año de mil ochocientos cuarenta y tres.

MICHELTORENA. MANUEL CASTANARES.

A su excelencia el Señor Comandante General y Gobernador de ambas Californias:

Guillermo Dickey, natural de Yrlanda y residente en este departamento hace siete años ante V. E. con el debido respeto me presento y digo:

Que hallandome deseoso de conseguer un terreno valdio situado sobre el lado septentrional del Arroyo Chico y empezando de la laguna de Tulé á la boca del dicho Arroyo Chico en el Rio Sacramento, ascendiendo el dicho Rio Sacramento cuatro leguas, de altá al este una legua, de allá al sud en linea paralela al dicho Rio Sacramento tres leguas y media, distante como media
[5 S. D. K.] leguas al norte del dicho Arroyo Chico, de allá al norte y este en linea paralela con el dicho Arroyo Chico dos leguas y media, de allá al sud mediá legua, de allá siguiendo el corriente del dicho Arroyo Chico al lugar de empezar, se llaman rancho del Arroyo Chico.

A V. E. suplico se digne acceder á esta solicitud en lo que recibire merced.

Monterey, y 22 de Diciembre, de 1843.

GUILLERMO DICKEY.

MONTEREY, *Oc'bre* 31, *de* 1843.

Ynf'l al S'r s'rio del despacho pidiendo los q'e necesite al efecto.

MICHELT'A.

Dispone el ex'mo S'or gobernador, pase esta instancia al S'r Sutter como encargado de la frontera del Sacramento, p'a que informa sobre el particular teniendo presente las demas solicitudes que hay por terrenos del dicho lugar del Sacramento.

Monterey, 4 de Eno., de 1844.

MAN'L JIMENO.

[6 S. D. K.]

Jurisdiccion del Rio Sacramento.

El terreno que solicita en esta pedimento el ciudadano Dn. Guillermo Dickey, es baldio y no pertenece á pueblo ni individuo alguno, y doy esta certificacion p'a los fines q'e convengan.

Nueva Helvetia, á 10 de Oct're, de 1844.

J. A. SUTTER.

[7 S. D. K.]

El terreno que solicita en este pedimento el S'or D'n Guillermo Dickey y q'e es representado en el adjunto diseño esta desocupado y doy esta certificacion para los fines que convengan.

Jusgado del distrito del Rio Sacramento.

Nueva Helvetia, Enero 27, de 1844.

J. A. SUTTER.

Ex'mo Senor:

El terreno que se pretende esta valdio segun el informe del S'or Sutter, y la persona que lo solicita esta naturalizado con residencia de ocho años en este pais y es de buena conducta. Y á pesar de q'e los terrenos que se han pretendido por el rumbo del Sacramento, no se han podido conceder á muchos por que se espera la visita q'e tiene V. E. acordado hacer; como el interesado tiene hecha la solicitud desde Diciembre del año pasado, y que se conforma ahora con que se le permita la ocupacion provicional del terreno, y entiendo no haber inconveniente p'a q'e asi se le conceda, en la inteligencia que no deba hacer gastos de fabricas, q'e tal vez puedan resultar en su contra por el resultado de la disposicion ulterior que V. E. tubiera á bien tomar sobre el particular y que se ciñe á poner en él sus bienes semovientes, y hacen las labores de campos. Por lo espuesto V. E. resolverá lo q'e tubiera por mas conveniente.

[8 S. D. K.] Monterey, 7 de Mayo, de 1844.

MANUEL JIMENO.

MONTEREY, *Mayo* 8, *de* 1844.

Conforme literalmente entendido el antecedente informe.

MICHELT'A.

[*For map see original, page* 10.]

[10 S. D. K.]

MONTEREY, 18 *de Noviembre, de* 1844.

Vista la peticion con que da principio este espediente los informes que preceden con todo lo demas que se tubo presente y deber convino de conformidad con las leyes y reglamentos de la materia declaro a Don Gillermo Dickey, Mejicano por naturalizacion dueño en propiedad de un parage situado en el Rio de Sacramento, en estencion de cinco sitios de ganado mayor, he venido en concederle provisionalmente, la estencion mencionada. Librese el correspondiente despacho tomase razon en el libro respectivo y dirijase este espediente a la ex'ma asamblea para su aprovacion. El ex'mo S'or gobernador y comand'te g'ral de este departamento asi lo mando decreto y firmo de que doy fé.

[11 S. D. K.]

El C'no Manuel Micheltorena, General de Brigada del Ejercito Mejicano, Ayudante G'ral de la Plana Mayor del mismo, Gobernador Comand'te G'ral, é Inspector del Departamento de las Californias.

Por cuanto D. Guillermo Dickey, Mejicano por naturalizacion ha pretendido para su beneficio personal y el de su familia cinco sitios de ganado mayor, entre las margenes del rio Sacram'to y *y* habiendose practicado previamente los informes correspondientes, he venido en concederle propicionalmente d'ho terreno sugetandose á las condiciones siguientes:

1a. No debera hacer gastos de fabricas que tal vez puedan resultar en su contra, por el resultado de la disposicion ulterior del gobierno.

2a. No podra en manera alguna enagenarlo ni donarlo, y ni inponer gravamen alguno.

3a. Podra ocuparlo con sus bienes de campo y lavores, pero sin perjudicar las travesias caminos ni servidumbres.

4a. Cuando se le haga la propiedad del terreno señalara por el juez respectivo los cinco sitios de ganado mayor que pretende.

5a. Si contraviniere á estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consequencia mando que serviendole de titulo el presente por un despacho provicional, se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey, 18 de No'bre de 1844.

M. MICHELT'A

MAN'L JIMENO, *S'rio.*

Que.

[12 S. D. K.]

Sello Cuarto—Dos Reales.

Habilitado provicionalmente por la Aduana Maritima del Puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[L. S.]

El Ciudadano Manuel Micheltorena, General de Brigada del Ejercito Mexicano, Ayudante General de la Plana Mayor del mismo, Gobernador, Comandante G'ral, é Inspector del Departamento de California.

Reg'do fojas 2. } Habiendo D. Guillermo Dickey, originario de
Jimeno's Rubric. } Yrlanda, cumplido con las condiciones y requisitos que previene la ley respectiva que arregla el modo con que debe concederse la carta de naturaleza á los estrangeros, y acompañado los documentos que lo acreditan, declaro al referido D. Guillermo Dickey por las presentes naturalizado en la republica Mejicana, en virtud de la autoridad que por aquella ley se me confiere.

[13 S. D. K.] Monterey, 6 de Mayo, de 1844.

MAN'L MICHELTORENA.

MAN'L JIMENO, *S'rio.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR THE STATE OF CALIFORNIA.

I, Samuel D. King, surveyor gen'l of the United States for the State of California, and as such, now having in my office and under my charge and custody, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the thirteen preceding and hereunto annexed pages of tracing paper exhibit true and accurate copies of certain documents now on file, and forming part of the said archives in my office, the said pages being numbered from one to thirteen, inclusive, and each being verified by my initials, (S. D. K.)

In testimony whereof, I have hereunto signed my name, officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., this seventeenth day of February, A. D. 1852.

SAM'L D. KING,
Surv'r Gen'l, Cal.

Filed in office March 30th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Page 4th of the Expediente.

To his Excellency the Commander-in-chief and Governor of both Californias:

William Dickey, a native of Ireland, a resident of this department for seven years before your excellency, with all due respect presents himself and says: That being desirous of obtaining a tract of land which is vacant and situated upon the north side of Chico creek, and beginning at the Tule lake, at the mouth of said creek, on the Sacramento river, ascending said river four leagues; thence east one league; thence south in a line parallel with said river three and a half leagues, to within half a leagues of said Chico creek; thence to the north and east in a parallel line with said "Arroyo Chico" two and a half leagues; thence south half a league; thence following the channel of said Chico creek to the place of beginning—it is called the "Rancho del Arroyo Chico"—he supplicates your excellency to accede to his solicitation, in which he will receive grace.

Monterey, 22d December, 1843.

WILLIAM DICKEY.

MONTEREY, *Dec.* 31*st*, 1843.

Let the secretary of state report, taking the necessary information on the subject.

MICHELTORENA.

His excellency the governor directs that this petition pass to Señor Sutter, who is in charge of the frontier of the Sacramento, that he may inform relative to the particulars, bearing in mind the other petitions that there are for lands in said place, Sacramento.

Monterey, 4th January, 1844.

MANUEL JIMENO.

Page 7.

The land which Mr. William Dickey solicits in this petition, and which is represented in the annexed map, is vacant (unoccupied), and I give this certificate for the purposes it may serve. (Court-house of Sacramento district.)

New Helvetia, 27th January, 1844.

J. A. SUTTER.

Page 12.

The citizen Manuel Micheltorena, Brigadier General of the Mexican Army, Adjutant General of the Staff of the same, Governor Cammander in Chief, and Inspector of the Department of California.

Mr. William Dickey, a native of Ireland, having fulfilled the

conditions and requisitions (which) provided by the respective law (provides) that regulates the manner of granting the letter of naturalization to strangers, and accompanying the documents which accredit the same, I declare the aforesaid William Dickey by these presents naturalized in the Mexican republic, in virtue of the authority which that law confers upon me.

Monterey, 6th March, 1844.

MANUEL MICHELTORENA.

MANUEL JIMENO, *Sec'y.*

Page 7.

MOST EXCELLENT SIR: The land which is solicited is vacant according to the information of Señor Sutter, and the person who solicits it is naturalized with a residence of eight years in this country, and is of good conduct; and notwithstanding the lands petitioned for in the direction of the Sacramento, not many could be granted on account of the visit which is awaited and which your excellency has resolved to make, as the interested party has made his application since December of last year, and agrees to the permission of the provisional occupation of the land, I do not deem it inconvenient to grant him the land, with the understanding that he ought not to make expenses in buildings, which at the same time might result in his loss in consequence of the ulterior disposition which your excellency might deem proper to take respecting the matter, and that he bind himself to put on it his live property, and they perform his farming operations (labors de campo.)

Sir, by what has been explained, your exc'y will determine that which will be most convenient.

Monterey, 7th May, 1844.

MANUEL JIMENO.

MONTEREY, *8th May*, 1844.

Let it be done, the foregoing information being literally understood.

MICHELTORENA.

Page 6.

Jurisdiction of Sacramento.

The land which the citizen William Dickey solicits in this memorial is vacant, and does not belong to any town or individual, and I give this certificate for the purposes it may serve.

New Helvetia, 10th October, 1844.

J. A. SUTTER.

Page 2.

His Excellency the Governor:

William Dickey, a native of Ireland, and resident of this depart-

ment since the year 1837, presents himself before your excellency with the most profound respect, and says:

That being a naturalized Mexican, and desiring to dedicate myself to agriculture, I pray your excellency to grant me the land situated on the margin of the Arroyo Chico; and its boundaries are, on the west the river Sacramento, on the north vacant and sterile lands, on the east the Sierra Nevada, and on the south the Arroyo Chico; said land has the extent of one league on the border of the river Sacramento, and of five leagues on the border of the Arroyo Chico, comprising the extent of five square leagues of black cattle (ganado mayor,) as is shown by the annexed map.

Wherefore I pray your excellency to accede to this my petition, by which I will receive grace and favor, and swear what may be (that) it is necessary (for me.)

Monterey, November 5th, 1844.

WILLIAM DICKEY.

MONTEREY, *Nov.* 9, 1844.

Let the secretary of state report, taking previously the necessary informations.

MICHELTORENA.

Page 3.

To the Governor—(SIR:) By the information which the interested party herewith accompanies, it appears that the land is vacant, and by a superior decree of your excellency, you have commanded that a provisional title (right) be granted to him; and I understand that this can be done (with the understanding that it shall be completed) (poded vrificarse) marking out anew the boundaries of the land which the interested party here describes the superior disposition of your excellency will best determine.

Monterey, 7 November, 1844.

MANUEL JIMENO.

7*th* NOVEMBER, 1844.

Let it be accordingly done.

MICHELTORENA.

Page 11.

Citizen Manuel Micheltorena, Brigadier General of the Mexican Army, Adjutant of the Staff of the same, Governor, Commander in Chief and Inspector of the Department of the Californias.

Whereas William Dickey, a Mexican by naturalization, has solicited for his personal benefit and that of his heirs five square leagues of land on the banks of the Sacramento river, suitable information having been previously executed, I have resolved to grant him provisionally said lands, being subject to the following conditions:

1st. He ought not to make expenses in buildings which might result in his loss in consequence of the ulterior disposition of the government.

2d. He cannot in any manner alienate it, nor donate it nor impose obligations of any kind.

3d. He can occupy it with his stock and property, but without injuring crossings and roads, nor the right of way.

4th. When the land shall be made his property, the respective justice of the peace shall lay out the boundaries of the 5 square leagues which he solicits.

5th. If he contravenes these conditions he shall lose his right to the land, and it shall be denounced by another person.

In consequence thereof, I command that, the present serving him as a title (the present) for a provisional patent, (despatch,) it be recorded in the respective book, and that it be delivered to the interested party for his security, and other purposes.

Given in Monterey, November 18th, 1844.

(Signed) MANUEL MICHELTORENA.
(Signed) MANUEL JIMENO, *Sec'y.*

Señ. Judge charged with the Jurisdiction of New Helvetia:

William Dickey, a Mexican by naturalization, respectfully presents himself before your honor and states:

That having obtained from the departmental government the provisional title which accompanies this, in the form represented by the annexed map, I have resolved to solicit his excellency, the governor, to extend to me a definitive and valid title for the same land, and according to measurement, the distance between the river Sacramento and the base of the sierra is not as great as was considered. I therefore pray your honor to inform me whether said quantity of land can be marked out in any other form, extending it, instead of five leagues in length, only three and a half, a little more or less, and a league and a half in width, and having for its boundaries, on the north the land petitioned by Don Santiago, vacant and sterile lands, on the east by the base of the Sierra Nevada, on the south by the arroyo Chico, and on the west by the river Sacramento, as is shown by the accompanying design.

Wherefore I pray your honor to grant this, my petition, and to inform me of whatever else is necessary.

New Helvetia, June 4, 1846.

WILLIAM DICKEY.

Allowing the use of common paper for the want of sealed paper.

Jurisdiction of the River Sacramento.

NEW HELVETIA, *June 4th*, 1846.

Let this petition be granted, there being no obstacle to the application of the interested person, and let it be accompanied by the annexed document. J. A. SUTTER.

Manuel Micheltorena, Brigadier General of the Mexican Army, Adjutant General of the Engineer Staff, Comandante Gen. and Inspector of the Department of the Californias.

This supreme departmental government not being now able, on account of close occupation, to extend one by one the respective titles to all the citizens who have solicited lands with favorable information from the Señor Don Augustus Sutter, captain and judge charged with the jurisdiction of New Helvetia and Sacramento, in the name of the Mexican nation, I grant them, by this letter, the ownership of them, (said lands,) and to their heirs that of the respective land designated in their petitions and designs, to all and each one of those who may have solicited and obtained favorable information from said Sor. Sutter up to this date, so that no one may dispute their ownership, a copy of this which the Sor. Sutter shall in future give them serving them for a formal title, with which they shall present themselves to this government to have extended to them the said title in due form and on corresponding sealed paper. And for due permanency in all times I give this document, which shall be recognised and respected by all the authorities, military and civil, of the Mexican nation, in this and the other departments, being duly authorized by the military and that of the government.

In Monterey, on the 22d of December, 1844.

MICHELTORENA.

I certify this to be a copy.

New Helvetia, June 8, 1846.

J. A. SUTTER.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office in case No. 143, John Bidwell, for the place named "Arroyo Chico."

GEO. FISHER, *Sec'y.*

Filed in office March 30, 1852.

GEO. FISHER, *Sec'y.*

Señor Juez y Encargado de la Jurisdiccion de Nueva Helvetia:

Guillermo Dickey, Mexicano por naturalizacion ante vd. respetuosamente hace presente:

Que habiendo obtenido del gobierno departamental el titulo provisional que acompaña en la forma q'e representa el adjunto diseño, he resuelto a solicitar al E. S. gobernador p'a q'e me estienda un titulo definitivo y valedero del mismo terreno; pero segun una medida en esta parte; la distancia entre el Rio Sacramento y las faldas de la sierra, no es tanto como se consideraba, a V. suplico se sirva informar, si d'ha cantidad de terreno puede demarcarse en otra forma estendiendo, en lugar de cinco leguas de largo solam'te tres

y medio, poco mas o menos, y una legua y media de ancho, y siendo sus linderos al N. terreno pedido por D. Santiago Coutes y tierras baldias y esteriles; a E. las faldas de la Sierra Nevada; al S. el arroyo Chico y al pon'te el rio del Sacram'to como manifiesta el segundo diseño q'e acompaña. P. T. a V. suplica se serva admiter esta mi peticion, informando de todo las lo demas q'e crea necesario.

Nueva Helvetia a 4 de Junio de 1846 dispensando el uso, de papel comun pr. falta del sellado.

WILLIAM DICKEY.

Jurisdiccion del Rio Sacramento.

NUEVA HELVETIA, *a 4 de Junio de* 1846.

Queda admitida esta solicitud, no obstaculo alguno a la pretension del interesado; y como merece esta instancia va acompañada por una copia del adjunto documento.

J. A. SUTTER.

[*For map see original, page* 22.]

Sello Primero—Ocho Pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[SEAL.]

El Cno. Manuel Micheltorena, General de Brigada del Ejercito Mexicano, Ayudante General de la Plana Mayor del mismo, Gobernador, Comand'te G'ral e Inspector del Departam'to de las Californias.

Por cuanto Don Guillermo Dickey, Mejicano por naturalizacion ha pretendido para la beneficio personal y el de su familia cinco sitios de ganado mayor entre las margenes del Rio Sacramento y habiendose practicado previam'te los informes correspond'tes he benido en concederle provicionalmente d'ho terreno sugetandose a las condiciones siguientes:

1a. No debera hacer gastos de fabricas q'e tal vez puedan resultar en su contra, para el resultas de la disposicion ulterior del gobierno.

2a. No podra en manera alguna enagenarlo ni donarlo y ni imponer gravamen alguno.

3a. Podra ocuparlo con sus bienes de campo y labores, pero sin perjudicar las travesias caminos y servidumbres.

4a. Cuando se le haga la propiedad del terreno señalara por el juez respectivo los cinco sitios de gadado mayor que pretende.

5a. Si contrabiniere à estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consequencia mando que teniendose el presente titulo por un despacho provicional se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Monterey, a diez y ocho de Noviembre de mil ochocientos cuarenta y cuatro.

MAN'L MICHELTORENA.

MAN'L JIMENO.

Queda tomada razon de esta concesion en el libro respectivo á f's 12.

JIMENO.

Manuel Micheltorena, Gra'l de Brigada del Ejercito Mejicano, Ayudante Gra'l de la Plana mayor del mismo, Comandante Gra'l, é Inspector del Departamento de Californias.

No pudiendo, ahora por estar sumamente ocupado este gobierno supremo departamental, estender uno por uno los titulos respectivos a todos los cuida'nos que han solicitado terrenos con informes a su favor del S'or D. Agusto Sutter, capitan y juez encargado de la jurisdiccion de Nueva Helvecia y Sacramento a nombre de la nacion Mejicana les confiero por estas letras, la propriedad de ellos y sus familias de los respectivos terrenos marcados en sus instancias y disaños a todos y a cada uno de los que hayan solicitado y obtenido informe favorable del espresado S'or Sutter h'ta hoy dia de la fecha; sin que nadie pueda disputarles su propiedad, serviendoles una copia de esta q'e les dara mas adelante el S'or Sutter de titulo formal con el que se presentaran a este gobierno para estenderles el mismo titulo en la debida forma y papel sellado correspondiente; y para la debida constancia, en todos tiempos, doy este documento q'e sera reconocido por todas las autoridades civiles y militares de la Nacion Mejicana, en este y en los demas departamentos, autorizado debidamente con los sellos militar y de gobierno, en Monterey a veinte y dos de Diciembre, de mil ochocientos y cuarenta y cuatro.

MICHELTORENA.

Certifico que es copia.
Nueva Helvecia, Junio 8 de 1846.

J. A. SUTTER.

Filed in office March 30th, 1852.
(Signed) GEO. FISHER, *Sec'y.*

Deposition of J. A. Sutter.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS.

SAN FRANCISCO, *April 2d*, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in the State of California, came John Agustus Sutter, a witness produced in behalf of John Bidwell, claimant, being No. 143 on the docket of said commissioners, and after being duly sworn testified as follows:

The law agent of the U. S. being duly notified and was present.

Questions by Claimant's Counsel.

Question 1. What is your name, age, and residence?

Answer. My name is John Agustus Sutter; my age is 49, and I reside at Hock farm, Sutter county, State of California.

Question 2. State whether or not you were acquainted with William Dickey, and whether a grant of land was made to him, and by whom and by what title?

Answer. I was acquainted with William Dickey very well; I knew him in New Mexico about 17 years ago, and when he came to this country since 13 years ago—ever since I have been here. I know that he got a provisional title for land on Chico creek in 1844. It was granted to him by Gov. Micheltorena. It was afterwards confirmed to him by a document issued by Gov. Micheltorena, to serve as a formal title, which document was given to me and a true copy of the same was given by me to William Dickey.

Question 3. State whether said land was occupied and cultivated by said William Dickey within the time prescribed by law, and in what manner?

Answer. Dickey took possession of said land in the fall of 1845 and built a house upon it, put his stock there, and complied fully with the terms of the grant. He occupied the house. The land would have been occupied by him some time sooner if he had not been engaged in the military campaign.

Question 4. Where is said land situated, and how many leagues does it contain?

Answer. The land is situated on Chico creek and on the east side of the Sacramento river; Chico creek is its southern boundary; I think it contains five leagues.

Question 5. State if you know why a provisional title was given to some of the settlers in the Sacramento valley?

Answer. Because, at the time of making these grants, he, Gov. Micheltorena, had no general map of the country, and did not know the land in that section. Afterwards he got a map and acquired a knowledge of the country. Then he was ready to confirm and

make a full title to the grants he had made there, but was waiting till he should make a trip there which he had in contemplation. I showed him, however, that many of the grantees were anxious to have their titles confirmed at once, as they could cultivate and improve their lands with more satisfaction, and so he issued the document I have spoken of.

Question 6. State why a copy of the general title was given to said Dickey and the other settlers.

Answer. It was Gov. Micheltorena wish to cultivate the good feelings of the naturalized citizens, that they might discharge military duty under his command, and enlist them in his favor in case of an outbreak. This afterward took place; I received orders to call out volunteers to assist Gov. Micheltorena in his campaign, and William Dickey and the other settlers who received this general title came out and served in his campaign of 1844.

Question 7. State whether or not any efforts were made to have these general titles changed for complete titles or titles in due form, and on sealed paper.

Answer. There were. In the first place we were very far from the seat of government, and they would never let us know when the assembly had its sittings; but Mr. Bidwell made ready to go and take all the titles of the citizens in Sacramento valley to the assembly for confirmation, but just as he started out the war commenced, the bear flag was raised, and it was impossible to travel with safety to life on account of the hostility of the Indians and the native Californians.

Questions 8. State if you know why said efforts were unsuccessful.

Answer. I have stated above. We received information that the departmental assembly was in session in the fall of 1845, and the settlers had in contemplation to send their titles to the assembly when it should be in session, and at this time they prepared to send, but an order was received by me from Gov. Pio Pico, ordering me to expel all the foreigners from the country, and we heard that Gen. Castro was on the way up with a force to put said order in execution.

Question 9. Was any particular time prescribed within which these settlers or their titles were to be presented to the government for the purpose mentioned?

Answer. There was no time fixed.

Question 10. Are you the same person whose name is signed to the documents which are now here shown to you? If yea, state if you signed the said documents, whether or not the same are genuine, and executed when they bear date, and are they or not the original of the copy filed with the petition of John Bidwell, the claimant herein, in the office of the secretary of the board of land commissioners for California, marked Exhibit No. 3, and referred

to in the said petition, which is No. 143 on the docket of the said board.

Answer. I am the same person; the same are genuine, and were executed when they bear date; they are the originals of the copy filed with the petition of John Bidwell, the claimant, herein filed in the office of the secretary of the board of land commissioners of California, marked Exhibit No. 3, and referred to in the said petition, which is numbered 143 on the docket of said board.

Question 11. State whether or not an application was made to you by the grantee, William Dickey, to authorize a change to be made in the boundary of his grant? and if yea, state whether you granted him such a change of boundary?

Answer. Such application was made to me by said Dickey, and I granted his request for such change.

Question 12. Look at the map herewith shown you accompanying the general title given to William Dickey by you, being the original of the document filed with the petition of John Bidwell in the office of the secretary of the board of land commissioners for California, marked Exhibit 3, and referred to in said petition, which is No. 143 on the docket of said board, and state whether the said map accompanied said general title at the time you gave the same to William Dickey. If yea, state whether this map correctly represents the boundaries of said land according to said change therein so authorized and allowed by you on said application of William Dickey.

Answer. I have examined the said map accompanying the grant to William Dickey, being the original of the copy filed as stated. Said map accompanied the general title at the time I gave it, and represents the boundaries of said land according to the change authorized and allowed by me.

Cross-interrogations by the Law Agent of the United States.

Cross-interrog. In what month of the year 1845 did said Dickey take possession of said land?

Answer. In October, 1845.

Cross-interrog. 2. Describe the house Dickey built, as to size and the materials of the structure.

Answer. I do not know, and cannot say.

Cross-interrog. 3. What stock did Dickey put on the land?

Answer. Several hundred head of cattle.

Cross-interrog. 4. How long did Dickey occupy the land?

Answer. He occupied it until 1849.

Cross-interrog. 5. Was the land ever left vacant after the alleged grant to Dickey?

Answer. No; it has been occupied ever since.

Cross-interrog. 6. How far from the sea or the boundaries of a foreign nation is the land situated?

Answer. About one hundred miles from the sea, and I would say one hundred and forty miles from the Oregon line.

Cross-interrog. 7. Was judicial possession ever given of the land claimed?

Answer. It was.

(Signed) J. A. SUTTER.

Sworn to and subscribed before me the 2d of April, 1852.

(Signed) HARRY J. THORNTON,
Comm'r, &c.

Filed in office April 2d, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Señ. Judge charged with the jurisdiction of New Helvetia:

William Dickey, a Mexican by naturalization, respectfully presents himself before your honor and states:

That, having obtained from the departmental government the provisional title which accompanies this, in the form represented by the annexed map, I have resolved to solicit his excellency the governor to extend to me a definite and valid title for the same land; but according to measurement, the distance between the river Sacramento and the base of the sierra is not as great as was considered. I therefore pray your honor to inform me whether said quantity of land can be marked out in any other form, extending it, instead of five leagues in length, only three and a half, a little more or less, and a league and a half in width, and having for its boundaries, on the north the land petitioned by Don Santiago Coates, and vacant and sterile lands, on the east by the base of the Sierra Nevada; on the south by the arroyo Chico; and on the west by the river Sacramento, as is shown by the accompanying design.

Wherefore I pray your honor to grant this my petition, and to inform me of whatever else is necessary.

New Helvetia, June 4, 1846.

Allowing the use of common paper for the want of sealed paper.

(Signed) WILLIAM DICKEY.

Jurisdiction of the River Sacramento.

NEW HELVETIA, *4th June*, 1846.

This petition is granted, there being no obstacle to the application of the interested person, and, as is required, it is accompanied by the annexed document.

J. A. SUTTER.

The citizen Manuel Michéltorena, Brigadier General of the Mexican Army, Adjutant General of the Mexican Army of the same, Governor, Comandante General and Inspector of the Department of the Californias.

Whereas Don William Dickey, a Mexican by naturalization, has made application, for his personal benefit and that of his family, for five leagues of land between the banks of the river Sacramento, and having previously obtained the necessary information, I have thought proper to grant him said land, provisionally, subjecting it to the following conditions:

1st. He shall not incur the expense of building, which might result to his detriment, owing to the ulterior disposition of the government.

2d. He shall not in any manner alienate it, grant it, or impose any incumbrance on it.

3d. He may occupy it with his stock and labors, but without prejudice to the crossings, roads and servitudes.

4th. When he shall be made the owner of said land, there shall be marked out by the proper judge the five leagues applied for.

5th. If he contravene these conditions, he shall lose his right to the land, and it shall be denounceable by another.

Therefore I command, that holding this present title for a provisional one, it be entered in the proper book and delivered to the interested person for his security and other purposes.

Given in Monterey, on the 18th Nov., 1844.

(Signed) MANUEL MICHELTORENA.

(Signed) MANUEL JIMENO, *Sec'y.*

Entry has been made of this concession in the proper book, on folio 12.

JIMENO.

Manuel Micheltorena, Brigadier General of the Mexican Army, Adjutant General of the Engineer Staff, Commandant Gen. and Inspector of the Department of the Californias.

This superior departmental government not being now able, on account of close occupation, to extend one by one the respective titles to all the citizens who have solicited lands, with favorable information, from the Señ. Don Augustus Sutter, captain and judge, charged with the jurisdiction of New Helvetia and Sacramento, in the name of the Mexican nation I grant them, by this letter, the ownership of them, and to their heirs, of the respective land designated in their petitions and designs, to all and each one of those who may have solicited and obtained favorable information from said S'or Sutter up to this date, so that no one may dispute their ownership, a copy of this, which the S'or Sutter shall in future give them, serving them for a formal title, with which

they shall present themselves to this government to have extended to them the same title in due form and on corresponding sealed paper; and (*for due permanency in all times*) [in evidence whereof and for all times?] I give this document, which shall be recognised and respected by all the authorities, military and civil, of the Mexcian nation in this and in the other departments, being duly authorized, with the military seal and that of the government in Monterey, on the 22d December, 1844.

MICHELTORENA.

I certify this to be a copy.

(Signed) J. A. SUTTER.

New Helvetia, June 8, 1846.

I certify the foregoing to be a true and correct translation from the Spanish document on file in this office, in case No. 143, John Bidwell, for the place named "Arroyo Chico," marked Exhibit 3, and annexed to the deposition of John A. Sutter, of April 2d, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Filed in office March 30th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Deposition of P. B. Reading.

SAN FRANCISCO, *April* 7, 1852.

On this day, before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in the State of California, came Pearson B. Reading, a witness produced on behalf of the claimant in the case of the petition of John Bidwell, being No. 143 on the docket of the commissioners, and was duly sworn. The law agent was notified, and attended by Mr. Greenhow.

Questions by Claimant's Counsel.

Question 1st. What is your name, age and residence?

Answer. My name is Pierson B. Reading; my age 35; I reside in Shasta county, on my rancho.

Question 2d. State whether or not you are acquainted with William Dickey, and when and where you have known him?

Answer. I have known William Dickey since 1843, at Sutter's fort, and generally through Sacramento valley.

Question 3d. Do you know of his having received a grant of land; by what name was it and is it called, and where located?

Answer. I have never seen his title, but I know of his claiming to have a grant in 1844 for the rancho de la Arroyo Chico, situated on the north side of the Arroyo Chico, and bounded on the west by the Sacramento river. I am under the impression his grant was for five leagues of land.

Question 4th. State when said Dickey first occupied said land, and how long he occupied it; the manner in which he occupied it, and what improvements did he put upon it.

Answer. He occupied said land in 1845, until 1849; I saw a house he had built there in 1845, and I know of his having cattle and horses upon it. The rancho has been occupied ever since. John Bidwell is in possession of said ranch now.

Question 5th. State who occupied said land after said Dickey left it, and what improvements were upon it at that time.

Answer. I was not there when Dickey left. The improvements I had seen upon the place were a house and corral. The house was a log house filled in with mud.

Question 6th. Who occupies said land at the present time, and how long has he occupied it, and what improvements are now upon it?

Answer. Mr. Bidwell is now upon it; I do not know of my own knowledge how long he has owned it; I have always understood that he owned and occupied it for the last 2 or 3 years; do not know what improvements are upon it now, further than I have stated.

Question 7th. Do you know of your own knowledge the boundaries of said grant of land, and what are they?

Answer. I do not, further than that it is bounded on the south by the Arroyo Chico, and on the west by the river Sacramento.

(Signed) P. B. READING.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office April 7, 1852.

GEO. FISHER, *Sec'y.*

Deposition of David Spence.

SAN FRANCISCO, *April* 8, 1852.

On this day, before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in the State of California, came David Spence, a witness produced on behalf of the claimant in the case of John Bidwell, being No. 143 on the docket of the commissioners, and was duly sworn.

The law agent was notified and attended by Mr. Greenhow.

Questions by Claimant's Counsel.

Question. What is your name, age, and residence?

Answer. My name is David Spence; my age is 53 years, and my residence at Monterey.

Question. How long have you resided in California, and what offices did you fill under the government of California prior to the change of government?

Answer. I have resided in California 28 years, and filled the

office of alcalde at Monterey, and was member of the departmental assembly under the administration of Gov. Chico, and also that of Gov. Micheltorena.

Question. State if you know what was the mode of obtaining the approval of the departmental assembly to titles issued to applicants, and whether or not it was considered the duty of gov. or of the petitioner or grantee to present them for approval.

Answer. After the espediente had passed through the necessary steps, the titulo was presented by the gov., and when approved, a copy of the act of approval was delivered to the petitioner. It was always held and considered the duty of the gov. to present the titles, and not of the grantee.

Question. Have you ever known a case in which the approval of the assembly was refused?

Answer. I have not known of any such refusals except in the case of conflicting claims.

D. SPENCE.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office April 8, 1852.

GEO. FISHER, *Sec'y.*

Deposition of H. L. Ford.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS.

SAN FRANCISCO, *April* 19, 1852.

San Francisco, April 19, 1852.

Petition of John Bidwell for the ranch of Arroyo Chico, No. 143 on the docket.

On this day, before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in California, personally appeared Henry L. Ford, a witness produced in behalf of the claimant in the petition of John Bidwell, being No. 143 on the docket of the commissioners, was duly sworn.

The law agent was duly notified and attended by Mr. Greenhow. His evidence is as follows:

In answer to questions put by Robert Rose, counsel for the claimant, the witness answered as follows:

His name is Henry L. Ford; aged 28; citizen of the United States, residing now in Colusi county, in this State of California; knows John Bidwell, the petitioner herein; have known ever since July 4th, 1844, when they first met at New Helvetia; knows that in December, 1848, John Bidwell, in partnership with George McKinstry, purchased the ranch of Arroyo Chico from William Dickey, situated at the junction of Arroyo Chico and Sacramento river, in Butte county, California, containing five square leagues

of land; knows that said William Dickey, in July, 1844, petitioned Governor Micheltorena for the land embraced in said ranch, and received a decree for the provisional occupation of the land until the gov. could visit the country and ascertain the locality of the lands. In the latter part of November or first of December, 1844, in consequence of a revolutionary movement on the part of the native Californians, the gov., Micheltorena, requested the Americans to join him in quelling the said revolution. The request came through Capt. Sutter, then an officer in the Mexican service. The Americans nearly all obeyed the call, and joined him under Capt. Sutter, at the Salinas plains, near Monterey; and about the same time Gov. Micheltorena issued a document called a general title, a copy of which he ordered Capt. Sutter to deliver to each person who had received a provisional title in the manner above mentioned, in confirmation of the same. This general title was considered as a recompense to those who thus turned out to aid the government, and was so declared by Gov. Micheltorena, in a speech addressed by him to the troops at Salinas plains, near Monterey, saying, that the government, being without means, gave this title as being all in its power.

The witness further says, that in November, 1845, said William Dickey employed John Saunders to go on said ranch and build a house and corral. He, the said Saunders, kept for Dickey, on the said rancho, some cattle, horses, hogs, and chickens—ten or twelve horses and fifteen or twenty cattle—and fenced a patch of land, which he sowed in wheat. In the spring of 1846, Gen. Castro issued a proclamation ordering the foreigners to leave the country, including all who were born in the United States, in consequence of which the Americans took up arms to defend themselves. They remained under arms with that object until the 7th of July, 1846, when the American flag was hoisted in the country, and they then joined the troops under the United States officers, and continued in service until April, 1847, when they were disbanded at the Pueblo de los Angeles. Mr. Dickey then returned to his rancho, made further improvements, such as corrals, and put on about two hundred head of cattle in addition, and continued to occupy it until he sold to said John Bidwell, cultivating it exclusively and building several houses.

There are at present between two and three hundred acres under cultivation. The general title herein mentioned is the same which has been produced in the case of Peter Lassen and others, now on file.

HENRY L. FORD.

Subscribed and sworn, April 19, 1852, before me.

HILAND HALL,
Commissioner.

Filed in office April 19th, 1852.

GEO. FISHER, *Sec'y.*

Sor. Juez y encargado de la Jurisdiccion de Nueva Helvecia:

Guillermo Dickey, Mejicano por naturalizacion, ante V. respetuosam'te hace presente:

Que habiendo obtenido del gobierno departamental el titulo provisional que acompaña en la forma que representa el adjunto diseño he resuelto a solicitar al E. S. gobernador, p'a q. me estienda un titulo definitivo y valedero del mismo terreno; pero segun una medida en esa parte, la distancia entre el Rio Sacramento y las faldas de la sierra, no es tanto como se consideraba, á V. suplico se sirva informar, si d'ha cantidad de terreno puede demarcarse en otra forma, estendiendo en lugar de cinco leguas de largo, solam'te tres y media, poco mas ó menos, y una legua y media de ancho y siendo sus linderos al norte terreno pedido por D. Santiago Coates y tierras baldias, y estériles: al E. las faldas de la Sierra Nevada; al S. el Arroyo Chico; y al Pon'te el Rio del Sacramento como manifiesta el segundo diseño q. acompaña.

P. T. á V. suplico se sirva admitir esta mi peticion informando de todo lo demas q. crea necesario.

Nueva Helvecia, á 4 de Junio, de 1846, dispensando el uso de papel comun p'r falta del sellado.

WILLIAM DICKEY.

Jurisdiccion del Rio Sacramento.

NUEVA HELVECIA, *a* 4 *de Junio de* 1846.

Queda admitida esta solicitud no habiendo obstaculo alguno á la pretension del interesado; y como merece esta instancia, va acompañada por una copia del adjunto documento.

J. A. SUTTER.

[*For map see original, page* 43.]

Sello Primero—Ocho Pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[L. S.]

El C'no Manuel Micheltorena, General de Brigada del Ejercito Mejicano, Ayudante General de la Plana Mayor del mismo, Gobernador Comand'te Gral é Inspector del Departamento de las Californias.

Por cuanto D. Guillermo Dickey, Mejicano por naturalizacion,

ha pretendido para su beneficio personal y el de su familia sinco sitios de ganado mayor, entre las margenes del Rio Sacramento, y habiendose practicado previamente los informes correspondientes he benido en concederle provisionalmente d'ho terreno sugetandose á las condiciones siguientes:

1a. No debera hacer gastos de fabricas que tal vez puedan resultar en su contra por el resultado de la disposicion ulterior del gobierno. .

2a. No podra en manera alguna enagenarlo ni donarlo y ni imponer gravamen alguno.

3a. Podra ocuparlo con sus bienes decampo y labores, pero sin perjudicar las travesias caminos y servidumbres.

4a. Cuando se le haga la propiedad del terreno señalara por el juez respectivo los cinco sitios de ganado mayor que pretende.

5a. Si contraviniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consequencia mando que teniendose el presente titulo por un despacho provisional se tome razon de él en él libro respectivo, y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey a diez y ocho de Noviembre de mil ochocientos cuarenta y cuatro.

MAN'L MICHELTORENA.

MAN'L JIMENO, *S'rio.*

Queda tomada razon de esta concesion en el libro respectivo a fs. 12. JIMENO.

Manuel Micheltorena, G'ral de Brigada del Ejerato Mejicano, Ayudante G'ral de la Plana Mayor del mismo, Comandante G'ral é Inspector del Departamento de Californias.

No pudiendo ahora por estar sumamente ocupado este gobierno supremo departamental, estender uno por uno los titulos respectivos a todos los ciudadanos qe. han solicitado terrenos con informes a su favor del S'or D. Augusto Sutter, capitan y juez encargado de la jurisdiccion de la Nueva Helvecia y Sacramento; a nombre de la nacion Mejicana les confiero por estas letras, la propiedad de ellos y sus familias los respectivos terrenos marcados en sus instancias y diseños, a todos y a cada uno de los q'e hayan solicitado y obtenido informe favorable del espresado S'or Sutter h'ta hoy dia de la f'ha; sin que nadie pueda disputarles su propiedad, sirviendoles una copia de este q'e les dara mas adelante el S'or Sutter de titulo formal con el q'e se presentaran a este gobierno para estenderles el mismo titulo en la debida forma y papel sellado correspondiente; y para la debida constancia, en todos tiempos, doy este documento que sera reconocido y acatado por todas las autoridades civiles y militares de la nacion Mejicana, en este y en los demas departamentos, autorizado debidamente con los sellos militar y de gobierno, en Monte-

rey a viente y dos de Diciembre de mil ochocientos y cuarenta y cuatro.

MICHELTORENA.

Certifico que es copia.

Nueva Helvecia, Junio 8, de 1846.

J. A. SUTTER.

Filed in office Ap'l 2d, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Deed—William Dickey to Geo. McKinstry, jr.

Know all men by these presents that I, William Dickey, of the Sacramento valley, Upper California, for and in consideration of the sum of three thousand dollars to me in hand paid, the receipt of which is hereby acknowledged, have this day bargained, granted, and sold all my right, title and interest to the rancho Arr'o Chico, (more fully described in the annexed papers,) and all the appurtenances thereunto belonging, to Geo. McKinstry, jr., of the town of Suttersville, Sacramento district, Upper California, his heirs and assigns, forever, reserving the right of deeding to John Saunders one league of the same should he be dissatisfied with the transfer made by him to Robert Semple, of Benecia, and said transfer having been made by said Semple to Geo. McKinstry, jr.

In consideration of the above I bind myself, my heirs and assigns, forever, as witness my hand and seal this seventh day of May, in the year of our Lord eighteen hundred and forty-nine.

(Signed) WILLIAM DICKEY. [SEAL.]

Attest—Witness: JNO. YATES.

TERRITORY OF CALIFORNIA,
District of Sacramento.

Be it known that, on this 11th day of June, personally appeared before me William Dickey, personally known to me to be the person who signed the foregoing instrument, who acknowledged the same to be his free act and deed for the uses and purposes therein mentioned.

Given under my hand the day and year aforesaid.

(Signed) HENRY H. SCHOOLCRAFT,
First Magistrate, Sacramento, California.

(*Endorsed on the outside:*)

Compared the copy on record and found it to be correct by this the original.

Feb. 25, 1851.

(Signed) T. J. JENKINS, *Co. Recorder.*
By C. T. LOTT, *Deputy.*

Deed—Geo. McKinstry to John Bidwell.

Know all men by these presents that I, George McKinstry, of Suttersville, Upper California, for and in consideration of the sum of seventeen hundred and eighty-five ($1,785) dollars to me in hand paid by John Bidwell, the receipt whereof I hereby acknowledge, have bargained, sold, and transferred, and by these presents do bargain, sell, and transfer unto the said John Bidwell, his heirs and assigns, all my right, title, and interest in and to the undivided half of five square leagues of land situated in the Sacramento valley, and described as follows: It has for its eastern boundary the barren lands which lie along the base of the Sierra Nevada; on the south and S. east it is bounded by Chico creek; and on the west by the Sacramento river; its northern limits are not defined until actual survey shall be made; said five square leagues being known as the tract granted by Gov. Micheltorena to William Dickey, of this district, together with the rights, privileges, and appurtenances thereunto belonging or in anywise appertaining, and together with all the stock, as cattle, horses, and all other property thereunto belonging or in anywise appertaining: to have and to hold unto the said John Bidwell, his heirs and assigns, all my right, title, and interest in and to the aforesaid undivided half of the above described five square leagues of land, together with all and singular the rights and privileges thereunto belonging or in anywise appertaining, forever.

And I, the said George McKinstry, and my heirs, unto the said John Bidwell, and his heirs, of my right, title and interest in and to the aforesaid premises and property thereunto belonging, the said undivided half, as fully and as completely to all intents and purposes as the same is warranted and defended unto me by the original Mexican documents and the transfer of the same by the aforementioned William Dickey, will warrant and defend forever by these presents.

In witness whereof, I hereunto set my hand and seal this sixth day of July, A. D. one thousand eight hundred and forty-nine.

(Signed) GEO. McKINSTRY, Jr.

In the presence of—
A. J. WARD,
TH. J. ABY.

STATE OF CALIFORNIA,
Sacramento County, ss.

On this 24 day of May, A. D. 1850, personally appeared before me, Lewis A. Birdsall, recorder in and for the county aforesaid, Geo. McKinstry, jr., to me known to be the person described in the within conveyance, and acknowledged that he executed the same freely and voluntarily for the uses and purposes therein set forth.

(Signed) L. A. BIRDSALL, *Recorder.*

(*Endorsed:*)

Rec'd for record May 24, A. D. 1850, at 2 o'c. p. m., and duly recorded in book "D" of deeds, page 141.

(Signed) L. A. BIRDSALL,
Rec'r Sac. Co.
By TH. J. ABY, *Dep'y.*

Compared the copy on record and found it to be correct by this the original.

(Signed) T. J. JENKINS,
Co. Recorder.
By C. F. LOTT, *Deputy.*

Feb. 25th, 1851.

"Deed"—Justus McKinstry to John Bidwell.

This indenture, made and entered into this twentieth day of February, in the year of our Lord eighteen hundred and fifty-one, between Justus McKinstry of the first part, and John Bidwell of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of nine thousand dollars, to him in hand paid, the receipt whereof is hereby acknowledged, has and doth hereby give, grant, bargain, sell, convey, and confirm unto said party of the second part, his heirs and assigns forever, the one undivided half of the rancho Rio Chico, lying and being situated in the county of Butte, in the State of California, and known and designated as follows, viz: Bounded on the east by the slope of the Sierra Nevada, on the south by the arroyo Chico, on the west by the Sacramento, containing five leagues, being the whole—the northern boundary not yet ascertained—together with all the right, title, and interest of said party of the first part in and to said rancho, and also one undivided half of all the stock, horses, cattle, mules, and all other personal property of every name, kind, and description, on, about, or appertaining, or belonging to said rancho, and all the interest of said party of the first part in and to the said stock and personal property aforesaid: to have and to hold the same unto the said party of the second part, his heirs and assigns forever, together with all and singular the rights, privileges, and appurtenances thereunto belonging or in anywise appertaining.

In testimony whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

(Signed) JUSTUS McKINSTRY. [SEAL.]

STATE OF CALIFORNIA,
County of Sacramento.

On this 20th day of February, A. D. 1851, personally appeared before me, a notary public in and for the said county, Justus Mc-

Kinstry, known to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and private seal affixed, (having as yet procured no official seal,) [SEAL.] at office in the city and county of Sacramento, in said State, the day and year above written.

B. F. TARR,
Notary Public.

(*Endorsed:*)

Rec'd for record on the 25th of February, A. D. 1851.

Recorded in vol. 1, book "A" of deeds, on pages 25 and 26, verbatim.

T. J. JENKINS, *Co. Recorder.*
By CHAS. F. LOTT, *Dep'y.*

"*Deed*"—*George McKinstry, Jr., to Justus McKinstry.*

Know all men by these presents that I, George McKinstry, jr., of Sacramento county, California, in consideration of five thousand to me in hand paid by Justus McKinstry, of the United States army, the receipt whereof is acknowledged, have sold, and do by these presents convey unto the said Justus McKinstry, his heirs and assigns forever, the one undivided half part of the following property, real and personal, to wit: all that tract or parcel of land situate in the county of Butte, State of California, known as Dickey's Rancho, or "Rio Chico Rancho," bounded on the east by the slope of the Sierra Nevada; on the south by the waters of the arroyo Chico; on the west by the Sacramento river—the northern boundary being not yet ascertained—containing five leagues of land; together with all the stock, horses, cattle, mules, &c., including all personal property of any kind belonging to said ranch, with all and singular the privileges, appurtenances, and hereditaments hereunto belonging: to have and to hold the same unto the said Justus McKinstry, his heirs and assigns forever, and I do covenant to warrant and defend the same against all lawful claims whatsoever.

This deed is made and executed in consideration and stead of a former deed made between the same parties of like tenor, and which has been lost or mislaid.

In witness whereof, I have hereunto set my hand and seal this 24th day of February, 1851.

(Signed) GEO. McKINSTRY, Jr. [SEAL.]

Witness: M. S. LATHAM,
J. E. HIGGINS.

SACRAMENTO COUNTY, STATE OF CALIFORNIA.

On this, the twenty-fourth day of February, A. D. 1851, personally appeared before me, a notary public in and for the county and State aforesaid, George McKinstry, jr., personally known to me as the person who executed the foregoing instrument, who acknowledged that he executed the same freely and voluntarily, and for the uses and purposes therein named.

Witness my hand and private seal, having no seal of office, the day and date above written.

(Signed) MILTON S. LATHAM, [SEAL.]
Notary Public.

William Dickey to John Bidwell, (quit-claim Deed.)

This indenture, made the thirty-first day of May, one thousand eight hundred and fifty-two, between William Dickey, formerly of California, now a resident of the State of Pennsylvania, of the first part, and John Bidwell, of the State of California, of the second part, witnesseth:

That said party of the first part, for and in consideration of the sum of one dollar, lawful money of the United States to him in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, hath remised, released, set over, and quit-claimed, and by these presents doth remise, release, set over, and quit-claim unto the said party of the second part, his heirs, executors, administrators, and assigns forever, all the right, title, and interest of the party of the first part in and to all that certain tract, piece or parcel of land situate, lying and being in the county of Butte, State of California, lying on the east bank of the Sacramento river, and bounded on the south by the Arroyo Chico, or Chico creek, containing five square leagues, more or less, and called by the name of the "Rancho del Arroyo Chico;" together with all and singular the rights, incidents, servitudes, interests, and appurtenances thereof.

In witness whereof said party of the first part hath hereunto set his hand and seal the day and year first above written.

WILLAM DICKEY.

Sealed and delivered in presence of—
R. BIDDLE ROBERTS.

STATE OF PENNSYLVANIA,
County of Alleghany, ss.

On this thirty-first day of May, A. D. 1852, before me, Thomas Irwin, judge of the United States in and for the western district of Pennsylvania, came William Dickey, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and seal, at Pittsburg, the day and year last above written.

TH. IRWIN. [SEAL.]

UNITED STATES,
Western District of Pennsylvania, ss.

I, R. Biddle Roberts, clerk of the district court of the United States in and for the western district of Pennsylvania, do hereby certify that the Hon. Thomas Irwin, before whom the foregoing "quit-claim deed" was acknowledged, and who has in his own proper handwriting signed and attested the same, was at that time, and now is, judge of the United States in and for the western district of Pennsylvania, to whose official acts as such full faith and credit are due as well throughout the United States as elsewhere.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court, at Pittsburg, this thirty-first day [SEAL.] of May, A. D. 1852, and in the seventy-sixth year of the independence of the said United States.

R. BIDDLE ROBERTS, *Cl'k.*

(*Endorsed:*)

Filed for record on this 17th day of July, A. D. 1852, at 10 o'clock p. m.

Recorded in Deeds, vol. 1, book "A," on page 72

W. T. SEXTON,
Recd'r Butte Co., Cal.

Transfer Ex. No. 5.

Know all men by these presents that I, George McKinstry, of Suttersville, Upper California, for and in consideration of the sum of seventeen hundred and eighty-five ($1,785) dollars, to me in hand paid by John Bidwell, the receipt whereof I hereby acknowledge, have bargained, sold, and transferred, and by these presents do bargain, sell, and transfer unto the said John Bidwell, his heirs and assigns, all my right, title, and interest in and to the undivided half of five square leagues of land situated in the Sacramento valley and described as follows: It has for its eastern boundary the lands which be along the base of the Sierra Nevada; on the south and southeast it is bounded by Chico creek, and on the west by the Sacramento river; its northern limits are not defined until actual survey shall be made; said five square leagues being known as the tract granted by Governor Micheltorena to William Dickey, of this district, together with the rights, privileges, and appurtenances thereunto belonging or in any wise appertaining: to have and to hold unto the said John Bidwell, his heirs and assigns, all my right, title, and interest in and to the aforesaid undivided half of the above described five leagues of land, together with all and

singular the rights and privileges thereunto belonging or in any wise appertaining, forever.

And I, the said George McKinstry, and my heirs, unto the said John Bidwell, and his heirs, of my right, title, and interest in and to the aforesaid premises and property thereunto belonging, the said undivided half as fully and as completely to all intents and purposes as the same is warranted and defended unto me by the original Mexican documents, and the transfer of the same by the aforementioned William Dickey, will warrant and defend forever by these presents.

In witness whereof I hereunto set my hand and seal the sixth day of July, A. D. one thousand eight hundred and forty-nine.

GEO. McKINSTRY. [L. S.]

In presence of—
A. J. WARD.
TH. J. ABY.

STATE OF CALIFORNIA,
Sacramento County, ss.

On this 24th day of May, A. D. 1850, personally appeared before me, Lewis A. Birdsall, recorder in and for the county aforesaid, George McKinstry, jr., to me known to be the person described in the within conveyance, and acknowledged that he executed the same freely and voluntarily for the uses and purposes therein set forth.

L. A. BIRDSALL, [L. S.]
Recorder.

Filed in office March 30, 1852.

GEO. FISHER, *Sec'y.*

Transfer No. 6.

Know all men by these presents that I, William Dickey, of the Sacramento valley, Upper California, for and in consideration of the sum of three thousand dollars to me in hand paid, the receipt whereof is hereby acknowledged, have this day bargained, granted, and sold all my right, title, and interest to the rancho Arr'o Chico, (more fully described in the annexed papers,) all the appurtenances thereunto belonging, to George McKinstry, jr., of the town of Sutterville, Sacramento district, Upper California, his heirs and assigns forever; reserving the right of deeding to John Saunders one league of the same should he be dissatisfied with the transfer made by him to Robert Semple, of Benecia, and said transfer having been made by said Semple to Geo. McKinstry, jr.

In consideration of the above, I bind myself, my heirs and assigns, forever, as witness my hand and seal this seventh day of May, in the year of our Lord eighteen hundred and forty-nine.

WILLIAM DICKEY. [L. S.]

Attest—Witness: JOHN YATES.

TERRITORY OF CALIFORNIA,
District of Sacramento.

Be it known, that on this 11th day of June, personally appeared before me William Dickey, personally known to me to be the person who signed the foregoing instrument, who acknowledged the same to be his free act and deed for the uses and purposes therein mentioned.

Given under my hand the day and year aforesaid.

HENRY A. SCHOOLCRAFT,
First Magistrate, Sacramento, California.

(*Endorsed:*)

Compared the copy on record, and found it to be correct by this original. Feb'y 25, 1851.

T. J. JENKINS, *Co. Recorder.*
By C. F. LOTT, *Deputy.*

Filed in office March 30, 1852.

GEO. FISHER, *Sec'y.*

Transfer No. 7.

Know all men by these presents, that I, George McKinstry, jr., of Sacramento county, California, in consideration of five thousand to me in hand paid by Justus McKinstry, of the United States army, the receipt whereof is acknowledged, have sold, and do by these presents convey unto the said Justus McKinstry, his heirs and assigns, forever, the one undivided half part of the following property, real and personal, to wit: all that tract or parcel of land situate in the county of Butte, State of California, known as Dickey's ranch, or "Rio Chico Rancho," bounded on the east by the slope of the Sierra Nevada; on the south by the waters of the Arroyo Chico; on the west by the Sacramento river—the northern boundary being not yet ascertained—containing five leagues of land, together with all the stock, horses, cattle, mules, &c., including all personal property of any kind belonging to said rancho, with all and singular the privileges, appurtenances, and hereditaments thereunto belonging: to have and to hold the same unto the said Justus McKinstry, his heirs and assigns, forever; and I do covenant to warrant and defend the same against all lawful claims whatsoever.

This deed is made and executed in consideration and stead of a former deed made between the same parties of like tenor, and which has been lost or mislaid.

In witness whereof, I have hereunto set my hand and seal, this 24th day of February, 1851.

GEO. McKINSTRY. [SEAL.]

Witness: M. S. LATHAM,
J. E. HIGGINS.

SACRAMENTO COUNTY,
State of California.

On this twenty-fourth day of February, A. D. 1851, personally appeared before me, a notary public in and for the county and State aforesaid, George McKinstry, jr., personally known to me as the person who executed the foregoing instrument, who acknowledged that he executed the same freely and voluntarily, and for the uses and purposes therein named.

Witness my hand and private seal, having no seal of office, the day and date above written.

MILTON S. LATHAM, [SEAL.]
Notary Public.

Filed in office March 30, 1852.

GEO. FISHER, *Sec'y.*

Transfer Ex. No. 8.

This indenture, made and entered into this twentieth day of February, in the year of our Lord eighteen hundred and fifty-one, between Justus McKinstry, of the first part, and John Bidwell, of the second part, witnesseth: That said party of the first part, for and in consideration of the sum of nine thousand dollars, to him in hand paid, the receipt whereof is hereby acknowledged, has and doth hereby give, grant, bargain, sell, convey and confirm unto said party of the second part, his heirs and assigns forever, the one undivided half the Rio Chico rancho, lying and being situate in the county of Butte, in the State of California, and known and designated as follows, viz: bounded on the east by the slope of the Sierra Nevada; on the south by the Arroyo Chico; on the west by the Sacramento river, containing five leagues, being the whole—the northern boundary not yet ascertained—together with all the right, title, and interest of said party of the first part in and to said rancho, and also one undivided half of all the stock, horses, cattle, mules, and all other personal property of every name, kind and description, on, about or appertaining or belonging to said rancho, and all the interest of said party of the first part in and to the said stock and personal property aforesaid: to have and to hold the same unto the said party of the second part, his heirs and assigns forever, together with all and singular the rights, privileges and appurtenances thereunto belonging or in any wise appertaining.

In testimony whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

JUSTUS McKINSTRY. [SEAL.]

STATE OF CALIFORNIA,
County of Sacramento.

On this 20th day of February, A. D. 1851, personally appeared before me, a notary public in and for the said county, Justus Mc-

Kinstry, known to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and private seal affixed, (having as yet procured no official seal,) at office, in the city and county of Sacramento, in said State, the day and year above written.

B. F. TAN,
Notary Public.

Endorsed: Received for record on the 25th of February, A. D. 1851.

Recorded in vol. 1, book A of deeds, on pages 25 and 26, verbatim.

S. J. JENKINS,
Co. Recorder.
By CHAS. F. LOTT, *Dep'ty.*

Filed in office March 30, 1852.

GEO. FISHER, *Sec'y.*

Agreement.

U. S. LAND COMMISSION FOR CALIFORNIA.

In the matter of the claim of John Bidwell, No. 143.

I hereby consent and agree that the deraignment of title in the above cause, by deeds from William Dickey and others to the present claimant, may be filed as proof in said case without proof of the signatures to said deeds, said signatures being hereby admitted by me to be genuine.

January 8, 1853.

ROB'T GREENHOW,
Asst. Law Agent.

Filed in office January 8th, 1853.

GEO. FISHER, *Sec'y.*

Opinion.

No. 143.—John Bidwell, Claimant.

It appears from documentary evidence that William Dickey, (from whom the claimant, by sundry mesne conveyances, shows title,) by petition dated December 22d, 1843, solicited Gov. Micheltorena for a tract of land called the Arroyo Chico, situated on Sacramento river and Chico creek, in the present county of Butte; that the petitioner was referred by the governor to Secretary Jimeno, and by him to Capt. John A. Sutter, who is described as in charge of the frontier of Sacramento, and who, on the 27th of Jan'y, 1844, reported that the land was vacant; that the secretary on the 7th of May, 1844, reported to the governor favorably to the petition;

that, on account of a contemplated visit by the governor to that part of the country, suggested that the land should be granted provisionally, subject to the ulterior disposition which his excellency might deem proper to take in the matter.

This report of the secretary was approved by the governor on the 8th of the same month, but there does not appear to have been any title issue in consequence.

Under date of the 5th of November, 1844, William Dickey presented another petition to the governor for the land described. It is situated on the margin of the Arroyo Chico, and bounded on the west by the river Sacramento, on the north by vacant and sterile lands, on the east by the Sierra Nevada, and on the south by the Arroyo Chico, and being of the extent of one league on the border of the river Sacramento, and of five leagues on the borders of the Arroyo Chico, comprising the extent of five square leagues, as shown by the map annexed to the petition. This petition appears to have been accompanied by the written certificate of Capt. Sutter, favorable to the application, and having been referred by the governor to the secretary, he on the 7th of the same month made a report, in which reference to the former decree of the governor he recommended that a provisional title be issued according to the new boundaries described in the petition, upon which report the governor, on the same day, directed that it be accordingly done.

In conformity to these proceedings, a title paper was issued by the governor, countersigned by the secretary, granting to said Dickey the five leagues of land petitioned for, subject to the ulterior disposition which the government might make of it.

The original grant is produced, and duly proved, and the preliminary proceedings before mentioned are shown by the public archives, an official copy being filed in the case by the claimant.

There seems to be no question of the genuineness of the documentary evidence.

It appears also from testimony introduced by the claimant that William Dickey, the grantee, built a house and corral and put a small stock of cattle and horses on the land, in November, 1845, and soon afterwards had a piece fenced and sown to wheat, and that he continued to occupy the land, gradually extending his improvements, until about the year 1849, when he sold, and that the land has been occupied by those claiming under him ever since, the occupant for the past three years being the present claimant.

From the language of the provisional title paper in this case, in connexion with the circumstances under which it issued, I think it may be fairly understood to have been the intention of Gov. Micheltorena to make a grant of the land in fee to Dickey and his heirs, subject only to the by some subsequent act of the governor, and no such act having taken place, the title may perhaps be considered as absolute.

If it were necessary to decide the case alone on this grant, I should be strongly inclined to think *as* standing on the same footing with those resting on titles issued in common form which are not deemed provisional.

But the claimant has also introduced a document executed by Gov. Micheltorena and delivered to Capt. John A. Sutter, dated Dec. 22d, 1852, in which the governor, in the name of the Mexican nation, grants to all the citizens who have solicited lands with favorable information from the Señor Don Agustus Sutter, captain and judge *of* charged with the jurisdiction of New Helvetia and Sacramento, and to his heirs, the ownership of the respective lands designated in their petitions and designs in each and every case where such favorable information had been obtained from said Sutter up to the date of said document, and said document further provided that a copy of it which might be furnished such parties by said Sutter should serve them for a formal title with which they might present themselves to the government to have the title extended to each of them in due form.

We have accordingly held in the case of the claim of Samuel J. Hensley, No. 201, that this document, which has been denominated "the general title," was a valid contract on the part of the Mexican government with the several persons which it designates to make to them complete and perfect titles, and that the treaty with Mexico imposes an obligation on the government of the United States to recognise and confirm such titles. In the present case Dickey, the original grantee, comes clearly within the terms of the general title, having presented his petition for the land now claimed, accompanied by a map or design, and with the favorable information of Capt. Sutter in regard to it, and Capt. Sutter also during the existence of the Mexican authority having recognised him as one of the parties designated by delivering him a copy of the general title, to serve him as a title until a particular and more favorable one should be obtained from that government.

Among the papers presented by the claimant there is a petition from Dickey to Capt. Sutter, dated June 4, 1846, for an alteration in the boundaries of the land for which the provisional title had been issued, and an endorsement on the same by Capt. Sutter favorable to the application. But as Capt. Sutter had no authority to grant lands, or change the location of grants, this proceeding cannot be regarded as having any effect whatever on the claim, which can only be for the land described in the petition and design of Dickey and as recognised by the provisional title.

In conformity to the principles which we have adopted in previous cases, we hold the present claim to be valid, and make a decree for its final confirmation.

Commissioner Thornton concurring in the result.

(Signed) HILAND HALL.

Decree.

No. 143.—John Bidwell, Claimant.

This board, on full consideration, having come to the conclusion that the claim is valid, makes its decree of final confirmation of it as follows, viz:

It is decreed that the said claim be confirmed to the extent and quantity of five square leagues, being the same land described in the grant, dated the 18th of November, 1844, and in the petition and map or design to which the said grant refers, and of which the possession is proved to have been long enjoyed, provided that the said quantity of land granted, and now here confirmed to the claimant, be contained within the boundaries called for in said grants and petition, and map to which said grant refers; and if there be less than the said above named quantity within said bounds, then we confirm to the claimant that less quantity.

Given under our hands this 14 day of March, 1853.

(Signed) HILAND HALL,
HARRY J. THORNTON,
Com'rs.

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle Private Land Claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing seventy-one pages, numbered from 1 to 71, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 143 on the docket of the said board, wherein John Bidwell is the claimant against the United States for the place known by the name of "Arroyo Chico."

In testimony whereof I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, California, this twenty-first day of June, A. D. 1854, and of the independence of the United States of America the seventy-eighth.

GEO. FISHER, *Sec'y.*

Endorsed: Filed June 22d, 1854.

JNO. A. MONROE, *Clerk.*
By ALEX. M. SCHELL, *Deputy.*

Notice to prosecute Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 11th September, 1854.

JOHN BIDWELL
vs.
THE UNITED STATES.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of June, 1854, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Endorsed: Filed October 21st, 1854.
JOHN A. MONROE, *Clerk.*

Petition.

To the Honorable District Court of the United States in and for the northern district of California.

THE UNITED STATES, Appellants,
vs.
JOHN BIDWELL. } No. 38.

The petition of the United States, by their attorney, represents, that this cause is an application for a review of the decision of the board of commissioners whereby the claim of the said appellee was confirmed, as appears by reference to the records in the case; that a transcript of the said records was filed in this court on the day of ; that a notice of appeal was filed on the day of ; and that the land claimed lies in the said district.

That the said claim is invalid.

Wherefore appellants pray that the said decision of the board be reversed, and that this court decree the said title to be invalid.

Respectfully, &c.,

A. GLASSELL,
Ass't U. S. Attorney.

Endorsed: Filed June 27th, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of John A. Sutter.

United States District Court, northern district of California.

THE UNITED STATES
vs.
JOHN BIDWELL.

Testimony taken before John A. Monroe, U. S. commissioner, on the 6th day of July, A. D. 1855.

John A. Sutter, being duly sworn, deposes and says: I know the rancho called Arroyo Chico, or Dickey's ranch, being the same now occupied and owned by Mr. Bidwell. I recollect proceedings having been taken in 1844 by Mr. Dickey to secure a title to that ranch. On inspecting and reading the copy of the original petition now on file in the United States district court for the northern district of California, on page five (5) of said transcript, I recognise the description of said property, and know that there was a corresponding map of said land. The land described in said petition is the land occupied at the time by Mr. Dickey, and there never has been any conflicting claim thereto, to my knowledge, and is now occupied by the petitioner, John Bidwell. The document to which I have alluded on page No. 5 is dated as follows: "Monterey, á 5 de Noviembre, de 1844," and signed "Guillermo Dickey." I know these facts from my own knowledge, having accompanied the petitioner from Sacramento to Monterey.

J. A. SUTTER.

The district attorney appeared by A. Glassell, ass't dist. att'y, and waived all cross-examination.

JOHN A. MONROE,
U. S. Commissioner.

I, John A. Monroe, United States commissioner for the northern district of California, hereby certify that the foregoing deposition was taken by me and by me reduced to writing; and that I was attended by the counsel for the United States and for the claimant; and that the witness testified to and subscribed the foregoing deposition in my presence; and that the counsel for the United States waived cross-examination.

In testimony whereof I have hereto set my hand this sixth day of July, A. D. 1855.

JOHN A. MONROE,
U. S. Commissioner.

Endorsed: Filed July 6th, 1855.

JOHN A. MONROE, *Clerk.*

Answer.

In the District Court of the United States for the northern district of California.

JOHN BIDWELL ads. THE UNITED STATES. } No. 38.

The respondent, for answer to the petition filed in this case, answers and says: It is true that the lands mentioned in said pe-

tition, and in said transcript of the proceedings before the said board of commissioners, lie within said northern district of California, and within the jurisdiction of this court. But this respondent denies that his title to the said lands is invalid, and avers that the same is valid, and prays that the decision of the said board be affirmed, and his title be decreed to be valid.

JOHN BIDWELL,
By his attorney, E. O. CROSBY.

Endorsed: Filed July 6th, 1855.
JOHN A. MONROE, *Clerk.*

Opinion by His Honor Judge M. H. McAllister.

District Court of the United States for the northern district of California.

THE UNITED STATES, Appellants,
vs.
JOHN BIDWELL, Appellee.

On the 22 December, 1843, William Dickey, under whom appellee claims, petitioned Governor Micheltorena for a grant to a certain tract of land. The usual reference of the petition was made for information, and report accordingly rendered. This last stated that the lands petitioned for were vacant, and, after reciting that as the governor was about to visit the region of country in which the lands were situate, and few of those could be granted until such visit should be made, but inasmuch as the petitioner had applied as far back as December of the preceding year, and was willing to take provisional occupation of the land, it concludes with a recommendation to grant the land to the petitioner, with the understanding that he was not to make expenses in buildings, which might result in loss by reason of the ulterior decision of his excellency the governor. On the day following the date of this report the governor made a decree in accordance with it. No grant was ever issued in compliance with said decree, nor no other steps seem to have been taken on this petition.

On 5th November, 1844, a second petition was presented by the same party for a tract of land of larger dimensions, and varying somewhat in its boundaries from those described in the first petition. The land is in this second petition described as situated on the margin of the Arroyo Chico, and its boundaries are, on the west, the Sacramento river; on the north, vacant and sterile lands; on the east, the Sierra Nevada; on the south, the Arroyo Chico—having an extent of one league on the border of the river Sacramento, and of five leagues on the border of the Arroyo Chico, comprising the extent of five square leagues, as shown by the map annexed. This petition is accompanied by a certificate of approval by Captain J. A. Sutter, dated October 10th, 1844.

On a reference of this petition, Jimeno, the secretary of despatch, made a report in which he referred to the provisional decree made on the first petition, and recommended that a provisional title should issue in accordance with the new petition. On this report the governor decreed accordingly. In pursuance of such decree, a document issued on 18th November, 1844, by Micheltorena. It is different in from any heretofore brought to the notice of this court, and is in following form: Whereas William Dickey, a Mexican by naturalization, has solicited for his personal benefit and that of his heirs, five square leagues of land, on the banks of the Sacramento river, suitable information having been previously executed, I have resolved to grant him provisionally said lands, being subject to the following conditions:

1. He ought not to make expenses in buildings, which might result in his loss, in consequence of the ulterior disposition of the government.

2. He cannot in any manner alienate it, nor donate it, nor impose obligations of any kind.

3. He can occupy it with his stock and property, but without injuring crossings and roads, nor the right of way.

4. When the land shall be made his property, the respective justice of the peace shall lay out the boundaries of the five square leagues which he solicits.

In consequence thereof I command that, the present serving him as a title, the present being a provisional despatch or patent, it be recorded in the proper book, and that it be delivered to the interested party for his security and other purposes.

Given in Monterey, November 18th, 1844.

(Signed) MAN'L MICHELTORENA.

MAN'L JIMENO, *Sec'y.*

It appears from the testimony that Dickey, the party named in this document, in November, 1845, built a house and a corral on the premises and *place* thereon a small stock of cattle and horses, and in a short time thereafter fenced in a portion of the land and planted wheat thereon, and that he continued in possession of the land, extending his improvements until the year 1849, when he sold the land, which has continued in the possession of the purchaser and those claiming under him ever since, down to the present occupant, the appellee. No ulterior decision was ever made by Governor Micheltorena in special relation to the grantee, William Dickey, and he remained in possession under the said provisional title, unmolested by any Mexican authority, down to the period of the acquisition of Mexico by the United States. That an inchoate title and equitable interest had vested in the grantee under these circumstances by this court, is a question unnecessary to decide. There is other testimony in this cause, of a document-

ary character, which is entitled to consideration. The provisional title was made on the 18th November, 1844; on the 22d December following, Governor Micheltorena made what is termed a general grant, in which he stated that the supreme departmental government not being able, on account of close occupations, to extend, one by one, to each and all who had respectively solicited lands with favorable information from the Señor Don Augustus Sutter, captain and judge, &c., proceeded, in the name of the Mexican nation, to grant to all such the ownership of the respective land designated in their petitions and maps, and which had been presented up to that date. He also directs that said Sutter should deliver to all such persons a copy of the said document, to serve them for a formal title with which to present themselves for a perfect title. A copy of this document was presented by Señor Sutter to the grantee, William Dickey, whom he recognised as one of the parties to be benefited by such general title, and who, it is in proof, had previously petitioned for the tract of land in controversy, with the approbation of said Sutter, filing with his petition a map of the land, describing its boundaries. This court has heretofore considered the legal effect of the general title of Governor Micheltorena in the case of the United States vs. Samuel J. Hensley, decided at its present term.

In accordance with that decision the grantee, William Dickey, must be considered as one of those designated to take, under the terms of that document. Viewed, then, under the provisional title of 18th November, 1844, and the general title of 22d December, 1844, this court considers that the interest of the grantee is one which should be upheld.

As by agreement between the law agent of the United States, a certified copy of which is annexed to the transcript of the record, the deraignment of title from the grantee, William Dickey, to the appellee, is admitted as correct, the decision of the commissioners sustaining the validity of his claim must be affirmed.

Decree.

In the District Court of the United States for the northern district of California.

THE UNITED STATES vs. JOHN BIDWELL. } No. 38.—Stated term, July 16th, 1855.

Appeal from the final decision of the Commissioners to ascertain and settle the private land claims in California.

This cause came on to be heard at the present term of this court, on appeal from the final decision of the commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress passed 3d of March, 1851, upon the transcript of the proceedings and decision and the papers and evidence on

which said decision was founded, and it appearing to this court that the said transcript was duly filed in this court, and counsel for appellants and appellees having appeared, it is ordered, adjudged and decreed, that the decision of the said commissioners be, and the same is hereby, affirmed; and it is hereby further ordered, adjudged and decreed, that the claim of the appellee, John Bidwell, be, and the same is hereby, confirmed to five square leagues of land, being the same land described in the grant, dated 18 November, 1844, and in the petition and map to which said grant refers, and of file in the transcript of the record, and of which land the appellee and that under whom he claims have had the enjoyment since the year 1845: Provided, that the said quantity of five leagues granted and hereby now confirmed to the appellee, the said John Bidwell, be contained within the boundaries called for in said grant and petition, and map to which said grant refers; and if there be less than the said above stated quantity within said boundaries, then said less quantity is now hereby confirmed and decreed to the appellee, the said John Bidwell.

M. HALL McALLISTER,
Cir. Judge.
OGDEN HOFFMAN, JR.,
Dist. Judge.

Endorsed: Filed July 16th, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house in the city of San Francisco, on Monday, the 16th day of July, in the year of our Lord one thousand eight hundred and fifty-five.

Present, the Honorable M. H. McAllister, circuit judge; the Honorable Ogden Hoffman, jr., district judge.

THE UNITED STATES vs. JOHN BIDWELL. } No. 38.

In this case, on the application of the United States attorney, made in open court, it is ordered by the court that an appeal in behalf of the United States from the final decision of this court rendered in said cause at the present term be, and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed July 16th, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order to file Mandate U. S. Supreme Court.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house in the city of San Francisco, on Wednesday, the fifth day of May, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES vs. JOHN BIDWELL. } No. 38.

And now comes the said claimant, John Bidwell, by his attorneys, Thornton, Williams & Thornton, and presents the mandate of the Supreme Court of the United States, dismissing the appeal made herein on behalf of the United States to the said Supreme Court. Whereupon, and on motion of the said claimant, by his said attorneys, it is ordered that the said mandate be filed and made a part of the record of this court in this cause, and that the said claimant, John Bidwell, may proceed under the decree heretofore rendered by this court in favor of the claim of said claimant as under final decree.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed May 5th, 1858.

W. H. CHEVERS, *Clerk.*

Mandate.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America to the honorable [SEAL.] the judge of the district court of the United States for the northern district of California, greeting:

Whereas lately in the district court of the United States for the northern district of California, before you, in a cause between the United States, appellants, and John Bidwell, appellee, wherein a decree was rendered in favor of the said appellee by affirming the decision of the commissioners to ascertain and settle the private land claims in the State of California; whereupon the said appellants prayed an appeal, which was duly allowed by the said district court, to remove the said cause to the Supreme Court of the United States, as by the inspection of the transcript of the record of the said district court, which was brought into the Supreme Court of the United States, agreeably to the act of Congress and the rules of the said Supreme Court in such case made and provided, fully and at large appears.

And whereas in the present term of December, in the year of our Lord one thousand eight hundred and fifty-seven, the said

cause came on to be heard before the said Supreme Court, and it appearing that the said appellants have failed to have their cause filed and docketed in conformity to the rules of this court, it is now here ordered and decreed by this court, that this appeal from the district court of the United States for the northern district of California be, and the same is hereby docketed and dismissed, and that this cause be and the same is hereby remanded to the said district court.

Jan. 11th.

You, therefore, are hereby commanded that such proceedings be had in said cause, as according to right and justice and the laws of the United States ought to be had, the said appeal notwithstanding.

Witness the Honorable Roger B. Taney, Chief Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and fifty-seven.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Endorsed: Filed May 5th, 1858.

W. H. CHEVERS, *Clerk.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Tuesday, the 30th day of November, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

Order granting Appeal.

THE UNITED STATES vs. JOHN BIDWELL. } D. C. 38.—L. C. 143.

In this case, on application of P. Della Torre, esq., U. S. attorney, it is ordered by the court, that an appeal in behalf of the United States from the final decision of this court rendered in said cause at the June, 1855, term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay, and the appellants are ordered to serve the usual citation according to law.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed November 30th, 1858.

W. H. CHEVERS, *Clerk.*

Citation.

UNITED STATES OF AMERICA, *ss.*

To John Bidwell, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden in Washington on the first Monday in December next, pursuant to an order of appeal granted on the thirtieth day of November, A. D. 1858, in open court, by the district judge of the district court of the United States for the northern district of California, in a certain suit wherein the United States are plaintiffs and you are defendant, on appeal, to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco, this thirtieth day of November, in the year of our Lord one thousand eight hundred and fifty-eight. [SEAL.]

OGDEN HOFFMAN,
Dist. Judge.

Received copy within citation, through U. S. marshal, this 10th day of December, A. D. 1858.

J. BIDWELL.

Endorsed: Filed December 13th, 1858.

W. H. CHEVERS, *Clerk.*

I, W. H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify, that the annexed and foregoing pages, numbered from one to eighty-four, both inclusive, contain a full, true, and correct transcript of the record from the board of U. S. land commissioners, and of the pleadings, deposition, opinion, decree, orders, mandate and citation in said court, filed in this office in the case of The United States, appellants, v. John Bidwell, appellee.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at San Francisco, California, this eighteenth day of December, A. D. 1858, and of our independence the 83d. [SEAL.]

W. H. CHEVERS, *Clerk.*

Filed 9th February, 1859.